

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

FRANKLIN L. SIBLEY

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:20-cv-282-GHD-JMV

**CITIZENS BANK & TRUST COMPANY
OF MARKS, QUITMAN COUNTY, MISSISSIPPI
AND PEYTON MB SELF III**

DEFENDANTS

ORDER

This matter is before the court on the unopposed motion [50] of Defendant, Citizens Bank & Trust Company of Marks, Quitman County, Mississippi (“CB&T”), by and through counsel of record, and in accordance with L. U. Civ. R. 79(e) to seal certain documents on the docket. For the reasons discussed hereafter, the motion is granted as directed below.

A. The Documents that are the Subject of the Motion to Seal

By virtue of the Court’s Order [33], various attachments to Plaintiff’s complaint have already been sealed in accordance with L. U. Civ. R. 79(e). The documents that are the subject of the newly-filed motion to seal [50], some of which were previously sealed by the undersigned’s order [33] entered on January 29, 2021, include the following attachments to the Notice of Administrative Record [52]:

- Exhibit 2: March 13, 2020 Petition for Review of Retirement Benefits Termination with attachments (previously sealed by Doc. 33; attached to Complaint as Doc. 1-17).
- Exhibit 3: April 27, 2020 Submission of Affidavits of Peyton Self and Nelle Pritchard (previously sealed by Doc. 33; attached to Complaint as Doc. 1-18).
- Exhibit 4: May 7, 2020 Reply in Support of Petition for Review of Retirement Benefits Termination (previously sealed by Doc. 33; attached to Complaint as Doc. 1-19).
- Exhibit 6: February 10, 2020 correspondence from Frank Sibley to Jimmy Pritchard (previously sealed by Doc. 33; attached to Complaint as part of Doc. 1-17).

- Exhibit 10: March 9, 2020 correspondence from Jimmy Pritchard to Frank Sibley (previously sealed by Doc. 33; attached to Complaint as part of Doc. 1-17).
- Exhibit 13: May 27, 2020 supplement to Reply in Support of Petition for Review of Retirement Benefits Termination with attachments (previously sealed by Doc. 33; attached to Complaint as Doc. 1-21).
- Exhibit 19: All documents produced to Frank Sibley by Equias Alliance (previously sealed in part by Doc. 33; majority of Exhibit 19 attached to Complaint as Doc. 1-25).
- Exhibit 20: July 17, 2020 Second Supplemental Response from Frank Sibley with attachments (previously sealed in part by Doc. 33; attached to Complaint as Docs. 1-22 – 1-25).

B. The Legal Standards and Analysis

When presented with a request to seal, a court is to exercise its discretion “in light of the relevant facts and circumstances of the particular case.” *Haley v. Merial*, 2013 WL 12213925, at *1 (N.D. Miss. Feb. 28, 2013) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 603 (1978)). The Fifth Circuit applies a “balancing test to determine whether the danger of improper use outweighs the common-law right of public access.” *Haley* at *1 (citing *Belo Broad. Corp. v. Clark*, 654 F.2d 423, 434 (5th Cir. 1981)).

Certain of the documents at issue as identified in Defendant’s motion to seal contain information that relates to customers of CB&T. This includes customer names and general communications of customer banking activity. State and federal law restrict the disclosure of information related to customer activity of a financial institution. For example, by statute, Mississippi prohibits the disclosure by a bank or financial institution of the name of any depositor or the amount of any deposit. MISS. CODE. ANN. § 81-5-55. Additionally, the Graham Leach Bliley Act prohibits disclosure of customer financial information to unrelated third-parties absent consent of the customer. 15 U.S.C.A. § 6802.

Furthermore, several documents which are sought to be sealed are restricted from public disclosure under the FDIC regulations. FDIC regulations governing the disclosure of FDIC information exempt certain information from public disclosure. This includes “[r]ecords that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the FDIC or any agency responsible for the regulation or supervision of financial institutions.” 12 C.F.R. 309.5(g).

Other of the documents sought to be sealed contain the business and financial information of CB&T. These documents have no specific relation to Plaintiff’s complaint. For example, some of the documents sought to be sealed include records of meetings of the Board of Directors of CB&T, details of merger negotiations, financial information of Citizens Bank, and the like. Documents which contain business or financial information, by their nature, contain sensitive information which are subject to being sealed by the Court. *See Smith v. Schmidt & McGarland Firm*, 2008 WL 1716686, *1 (N.D. Miss. 2008). Protection of the confidential financial and operational information of CB&T outweighs any public interest in the information. Accordingly, the Clerk of the court is directed to seal on the docket the following exhibits, including any attachments thereto:

- Exhibit 2: March 13, 2020 Petition for Review of Retirement Benefits Termination with attachments (previously sealed by Doc. 33; attached to Complaint as Doc. 1-17).
- Exhibit 3: April 27, 2020 Submission of Affidavits of Peyton Self and Nelle Pritchard (previously sealed by Doc. 33; attached to Complaint as Doc. 1-18).
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SO ORDERED this, the 16th day of December, 2021.

/s/ Jane M. Virden

UNITED STATES MAGISTRATE JUDGE